

be made before any action on the merits; however, it may be made at any time before final action.

(b) Claims to the invention or inventions not elected, if not canceled, are nevertheless withdrawn from further consideration by the examiner by the election, subject however to reinstatement in the event the requirement for restriction is withdrawn or overruled.

[24 FR 10332, Dec. 22, 1959, as amended at 62 FR 53195, Oct. 10, 1997; 72 FR 46842, Aug. 21, 2007; 74 FR 52691, Oct. 14, 2009]

#### **§ 1.143 Reconsideration of requirement.**

If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111.) In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final the examiner will at the same time act on the claims to the invention elected.

#### **§ 1.144 Petition from requirement for restriction.**

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

[62 FR 53195, Oct. 10, 1997]

#### **§ 1.145 Subsequent presentation of claims for different invention.**

If, after an Office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to re-

consideration and review as provided in §§ 1.143 and 1.144.

[74 FR 52691, Oct. 14, 2009]

#### **§ 1.146 Election of species.**

In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.

[62 FR 53195, Oct. 10, 1997]

### **DESIGN PATENTS**

#### **§ 1.151 Rules applicable.**

The rules relating to applications for patents for other inventions or discoveries are also applicable to applications for patents for designs except as otherwise provided.

(35 U.S.C. 171)

#### **§ 1.152 Design drawings.**

The design must be represented by a drawing that complies with the requirements of § 1.84 and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the design. Appropriate and adequate surface shading should be used to show the character or contour of the surfaces represented. Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Broken lines may be used to show visible environmental structure, but may not be used to show hidden planes and surfaces that cannot be seen through opaque materials. Alternate positions of a design component, illustrated by full and broken lines in the same view are not permitted in a design drawing. Photographs and ink drawings are not permitted to be combined as formal drawings in one application. Photographs